

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 10/526,683	§	Confirm. No.: 5316
	§	
Applicant: DESARZENS, <i>et al.</i>	§	
	§	
Filing Date: 6 November 2005	§	
	§	
Examiner: GEORGE, T. R.	§	
	§	
Art Unit: 3733	§	
	§	
Docket No.: PUS-P001-034B-N	§	
	§	
Submission Via EFS Registered eFiling	§	

MS: AMENDMENTS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REPLY UNDER 37 CFR § 1.111; DECLARATION(S) UNDER RULE 1.131  
and REQUEST FOR EXTENSION OF TIME**

Dear Examiner George:

Responsive to the Non-Final Office Action mailed 28 November 2007, Applicant respectfully requests reconsideration of the above-referenced application in view of the following remarks and attached Declaration(s) of Prior Invention of all the inventors and supporting Witness Statement.

Additionally, an EFS Web e-Filed request for extension of time and fee payment is concurrently submitted with this filing.

Respectfully submitted,  
/Sherman D. Pernia/

28 April 2008  
Date

Sherman D. Pernia, Ph.D., JD  
Registration No. 34,404  
202-204-2222

### REMARKS

Applicant acknowledges that claims 1-13 are pending in the application, and that the Office currently holds claims 1-13 as rejected.

#### 35 USC §103(a)

The Office holds independent claims 1 and 13 rejected under 35 USC §103(a) as being unpatentable over Woford, the '916 publication, and further in view of Dye, the '356 publication. Applicant respectfully traverses this rejection.

However, in the interest of expediting prosecution, Applicant herewith under 37 CFR §1.131 submits its Declaration(s) of Prior Invention of all the inventors and supporting evidence in the form of a Witness Statement.

The evidence noted in the Witness' Statement is a copy of the figures submitted with the earliest claimed priority filings (S/Ns: 60/411,236 & 60/411,237; both filed 16 Sept. 2002), the subject matter of which the witness previewed prior to the 13 September 2002 and so states in the Witness Statement.

A constructive reduction to practice was accomplished in this case within three days of the '916 publication by the filing of the priority applications. Applicant was diligent in developing this invention prior to the effective date of the '916 publication and until the filing date of the priority applications (which was only three days).

Applicant respectfully requests that the Office accept and enter the Rule 1.131 submission, and acknowledge invention of the present case prior to the filing date of the '916 publication.

#### *Regarding Dependent Claims: Rejection Moot*

In view of the above remarks regarding independent claims 1 and 13, Applicant submits that the current rejection of dependent claims under §103(e) is now moot.

Applicant believes that the above amendments and remarks are fully responsive to the Office Action mailed 28 November 2007. Applicant respectfully requests

reconsideration and removal of all rejections of claims, and that, in view of the above remarks, the application is now in condition for allowance. Applicant respectfully requests the Examiner to contact the undersigned to timely resolve any minor issues that may remain in the application. Alternatively, Applicant invites the Examiner to suggest alternative claim language for Applicant's consideration, in order to facilitate timely prosecution of this application.

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